

Ogden River

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Marriott Irrigation Company Attn: Mark Hodson, President</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE NOTICE</p> <p>SEAA No. 1359 DISTRIBUTION ACCOUNTS: 101459 WATER RIGHTS: 35-7021, 35-7417</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. The Respondent diverts water from the Ogden River Distribution System or tributaries to the Ogden River in the Marriott Irrigation Company Canal.
2. The point of diversion associated with this canal based upon the water right records is located N 300 ft W 1140 ft from SE cor, Sec 19, T 6N, R 1W, SLBM

SCANNED

3. The Parshall Flume used by the water commissioner or his deputy to measure the water delivered in to the Marriott Canal does not function properly because (1) the water level in the canal is too high due to need of canal cleaning or (2) the flume elevation is too low such that it is "submerged" and does not function properly.
4. Deliveries to the Marriott Irrigation Company are monitored and controlled and reported by the Ogden River Water Commissioner.

III. ACTIONS REQUIRED

1. The Marriott canal or ditch must be maintained or cleaned OR the Parshall flume elevation needs to be increased sufficient to enable the flume to function properly and thereby provide a reliable water measurement.
2. The required work must be completed before April 15, 2010.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Ross Hansen
Regional Engineer
Weber River/Western Region
Utah Division of Water Rights
(435) 781-5327

SCANNED

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469

1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 15th day of October, 2009



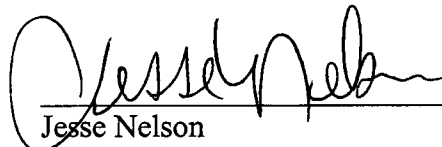
Ben L. Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 15th day of October, 2009, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Marriott Irrigation Company
c/o Mark Hodson, President
499 South 1200 West
Marriott, UT 84404

Marriott Irrigation Company
Tammy Fuller
1919 West 700 South
Ogden, UT 84404



Jesse Nelson
Division of Water Rights
Field Services Secretary

cc: Ross Hansen, Regional Engineer
Jim Wells, Ogden River Water Commissioner

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U.S. Postal Service™ Delivery Confirmation™ Receipt

DELIVERY CONFIRMATION NUMBER:
0308 1400 0001 9804 1719

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

(Please Print Clearly)
marriott Irrigation Company
c/o Mark Hodson Pres.
499 south 1200 west
marriott, ut

Postmark
Here 8444

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com®
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

- ☒ Priority Mail™ Service
☐ First-Class Mail® parcel
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PS Form 152, May 2002

(See Reverse)

U.S. Postal Service™ Delivery Confirmation™ Receipt

DELIVERY CONFIRMATION NUMBER:
0308 1400 0001 9804 1726

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

(Please Print Clearly)
marriott Irrigation Company
Tammy Fuller
1919 west 400 south
ogden, ut

Postmark
Here 8444

POSTAL CUSTOMER:

Keep this receipt. For Inquiries:
Access internet web site at
www.usps.com®
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

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☐ First-Class Mail® parcel
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